

UNITED STATES DISTRICT COURT
FOR THE
WESTERN DISTRICT OF PENNSYLVANIA

DARRYL ORRIN BAKER

Plaintiff,

VS.

UNITED STATES OF AMERICA
GOVERNMENT OFFICIALS AT
FCI-MCKEAN, WARDEN, OFFICER
B. WESEMEN, MEDICAL DEPARTMENT

Defendants.

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: CIVIL ACTION
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: CASE NO. # CA05-147 E
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COMPLAINT

NOW COMES, The Plaintiff, DARRYL ORRIN BAKER (hereinafter "PLAINTIFF"), proceeding **PRO-SE**, and bring this complaint on behalf of himself and alleges negligence on the part of the Government Officials at Federal Correctional Institution Mckean County Pennsylvania (hereinafter "FCI MCKEAN or DEFENDANTS") and the United States of America for future damages and injuries plaintiff sustained from the Government Officials negligence.

JURISDICTION AND VENUE

- (1) Plaintiff, **pro-se**, asserts that this Honorable Court has jurisdiction on this matter.
- (2) Plaintiff, **pro-se**, asserts this Court is the appropriate venue.
- (3) The named plaintiff in this complaint was a federal prisoner that was currently incarcerated at Federal Correctional Institution in Mckean County, Pennsylvania, FCI Mckean.

Parties

- (4) Plaintiff was incarcerated at FCI Mckean in August 2002 and up to July 1, 2004. And was transferred to FSL Elkton Ohio, Lisbon Ohio another Federal Institution.
- (5) Plaintiff at this time has remained incarcerated at FSL Elkton Ohio, Lisbon Ohio.
- (6) The United States of America and the Government Employees or Officials are negligent for failure to protect plaintiff and the Medical Department negligent for causing plaintiff future injuries.

Factual Allegations

- (7) The plaintiff allege, *inter alia*, that on February 27, 2004, at approximately 8:05 p.m., I inmate Baker, was assaulted by two (2) Latin King Gang Members at FCI Mckean.
- (8) At the time of this attack, I was assigned to the ten (10) man cell where I shared my living quarters with (9) other inmates, and several of these inmates saw the attack being administered to me by the Latin King Gang Members.
- (9) The assault lasted approximately between (7) to (10) minutes, leaving me battered and bruised very badly and in need of serious medical attention.

- (10) I was in the ten (10) man cell setting in a chair listening to the radio with my head phones on with my eyes closed, and two (2) Latin King Gang Members entered the (10) man cell and started assaulting me.
- (11) I suffered a bleeding and bruised nose, swollen left eye, swollen head, cuts, blurred vision, contusion, at the time of this attack by the Latin King Gang Members.
- (12) Officer B. Weseman, was on duty working the evening shift and was not present in the Unit at the time this assault took place.
- (13) Perhaps Officer Weseman, was asleep, or perhaps he left for a cigarette, or a snack, but he was not in the Unit when I was assaulted by the two (2) Latin King Gang Members, and Officer Weseman, was unaware what took place.
- (14) Two (2) days later, on February 29, 2004, at approximately 9:10 a.m., I was awoke by Officer Zerowitzs, the morning shift Officer, and he requested to see my face for bruises.
- (15) I was then immediately taken to the Lieutenant office and while I was there, pictures were taken of my face, left eye, back, hands, chest, where the two (2) Latin King Gang Members assaulted me.
- (16) Then I was immediately taken to the Medical Department where I was seen by a Physician Assistant.

- (17) The Physician Assistant, denied me any medication for my pain and suffering.
- (18) The Physician Assistant, denied me medical attention to my left eye.
- (19) The Physician Assistant was unaware that I had double vision, blurred vision, and that my left eye was off centered.
- (20) The Physician Assistant, denied me to see a Eye Doctor, or a Eye Specialist, and did not recommend me to see one.
- (21) Then I was immediately placed in Administrated Detention.
- (22) While I was there, I made numerous complaints about my condition to my left eye, and my pain and suffering, and was denied any treatment.
- (23) Then I made my complaints to the Warden and Assistant Warden and I still was denied medical attention for my left eye and pain and suffering.
- (24) As a result of the Defendant's negligences at FCI McKean I am suffering future pain and suffering and future ailments included, but are limited to:
 - (a) The left eye will not look up as far as the right eye.
 - (b) Some scarring on the floor of the orbit with possible adhesions to the inferior rectus muscle.

- (c) Orbital floor fracture.
 - (d) Orbital floor fracture w/Entrapment.
 - (e) Blow out fracture.
 - (f) Can not look up with my left eye without experiencing a form of diplopia.
 - (g) Left eye is of centered.
 - (h) Pain in my left eye when I move to right and left.
 - (i) Numbness in my left side of my face.
- (25) Plaintiff allege that the named Defendants negligence subjected the plaintiff to unusual punishment as a result of unreasonable risk of harm to plaintiff present and future general health, and well-being.

MEDICAL

- (26) On February 27, 2004, I inmate Baker, was assaulted by two (2) Latin King Gang Members, as a result of this attack I sustained injuries to my nose, head, left eye, and contusion, and emotional pain and future suffering.
- (27) Two (2) days later on February 29, 2004, at approximately 9:10 a.m. I was awoke by the morning shift Officer Mr. Zerowitz, were he ordered to see the injuries I had sustained, then I was immediately taken to the Lieutenant office where pictures where taken of my injuries and then I was seen by a Physician Assistant.

- (28) I did not receive any medication or any treatment for my left eye or my injuries.
- (29) Then I was taken to Administrative Detention.
- (30) While I was in Administrative Detention I did not receive any medical attention for my left eye, and the injuries I sustained.
- (31) I put in several sick call forms and was denied medical treatment by medical staff at FCI Mckean.
- (32) On March 11, 2004, I was seen by Doctor Beam, and received some eye drops and was denied medical treatment for my left eye.
- (33) I was released from Administrative Detention on March 26, 2004.
- (34) After my release, I began to put in sick call forms and and I was not seen by a Eye Specialist until two months after.
- (35) I did not see a Eye Surgeon until April 16, 2004.
- (36) This negligences by these Government Officials at FCI Mckean cause me future injuries to my left eye, and I will not be able to hold my job at General Motors when I am released form prison.

(37) This negligence by these Government Officials are the proximate cause and has caused me future injuries and future pain and suffering.

FIRST CAUSE OF ACTION

(38) Plaintiff allege that the named Defendant's Government Officials used nondiscretionary actions and was not in element of judgment or choice.

SECOND CAUSE OF ACTION

(39) Defendant's Government Officials "negligent" actions have created a direct liability for plaintiff in relationship to plaintiff's present and future health and well-being.

THIRD CAUSE OF ACTION

(40) Plaintiff was retaliated against fro filing his Tort Claim against Defendant's Government Officials.

FOURTH CAUSE OF ACTION

(41) Defendant's Government Officials "negligence" violated Discretionary Functional Exception.

FIFTH CAUSE OF ACTION

(42) Whether the Defendant's Government Officials used an element of judgment of choice when they failed to protect plaintiff.

SIXTH CAUSE OF ACTION

(43) Negligent acts of Defendant's Government Officials are proximate cause of the plaintiff's injuries.

SEVENTH CAUSE OF ACTION

(44) Negligent acts of Defendant's Government Officials denied the plaintiff duty of care owed to plaintiff.

EIGHTH CAUSE OF ACTION


(45) Plaintiff was denied medical treatment by Government Officials at FCI Mckean.

RELIEF REQUESTED

WHEREFORE, Plaintiff request that the court grant the following relief:

- A. The Plaintiff demand for a Trial by a Jury,
or a Bench Trial
- B. Award Plaintiff \$20 million for the claim submitted
to the Federal Agency.
- C. Award Plaintiff \$20 million for compensatory
damages against the Defendant's Government Officials.
- D. Award Plaintiff \$20 million for punitive damages
against the Defendant's Government Officials.
- E. Award Plaintiff \$15 million for medical damages
for pain and future suffering.
- F. Award Plaintiff any applicable interest against
the Defendant's until all judgment are satisfied.
- G. Awarding Plaintiff any other relief that may be
deemed just and fair against the Defendant's Government
Officials.

Respectfully submitted

/s/ 
DARRYL ORRIN BAKER
REG. NO. # 19613-039
FSL ELKTON OHIO
P.O. BOX 10
LISBON, OHIO
44432-0010

EXECUTED MAY 11, 2005.